

## Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:CORP:B05

PLR-147828-13

Date:

March 21, 2014

### Legend

Taxpayer =

State A =

Exchange =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Dear :

This letter is in response to your November 18, 2013, request for rulings on certain U.S. federal income tax consequences of a Proposed Distribution (defined below). The information submitted in that request is summarized below.

The rulings contained in this letter are based upon facts and representations submitted on behalf of the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

## SUMMARY OF FACTS

Taxpayer, incorporated in State A, is an accrual basis taxpayer that files federal income tax returns as a real estate investment trust ("REIT") on a calendar year basis.

Taxpayer, for all relevant periods, qualifies as a REIT and intends to maintain such qualification. Taxpayer regularly distributes its earnings and profits as required under § 857(a)(1). Taxpayer has one class of common stock outstanding (the "Common Stock") that is publicly traded and listed on the Exchange.

Taxpayer intends to make one distribution to its shareholders with respect to its Common Stock to be paid to its shareholders of record as of Date 1, with an ex-dividend date of Date 2; Taxpayer also intends to make one or more distributions to its shareholders with respect to its Common Stock to be paid during the taxable years ending on Date 3 and Date 4 (each a "Proposed Distribution" and collectively, the "Proposed Distributions"). Taxpayer will make a Proposed Distribution in the form of a combination of Common Stock and cash. Each shareholder will have the right to elect to receive its portion of a Proposed Distribution in the form of either 100 percent Common Stock or 100 percent cash. If a shareholder fails to make a valid election, that shareholder will be deemed to have made an election to receive its portion of a Proposed Distribution in the form of 100 percent cash.

While each shareholder will have the option to elect to receive cash in lieu of Common Stock for its portion of a Proposed Distribution, in no event will the total amount of cash available in a Proposed Distribution (the "Cash Amount") be less than 20 percent of the aggregate value of a Proposed Distribution, as measured pursuant to the valuation mechanics described below. Any cash paid in lieu of fractional shares of Common Stock will not count towards the Cash Amount.

If, for any Proposed Distribution, the total number of shares of Common Stock for which an election to receive cash is made would result in the payment of cash in an aggregate amount that is less than or equal to the Cash Amount, then each shareholder electing to receive cash will receive its portion of that Proposed Distribution entirely in cash. If the total number of shares of Common Stock for which an election to receive cash is made would result in the payment of cash in an aggregate amount that is in excess of the Cash Amount, then each shareholder electing to receive cash will receive a prorated amount of cash and will receive the remainder of its portion of that Proposed Distribution in Common Stock. In no event will a shareholder electing to receive cash receive less than 20 percent of its portion of that Proposed Distribution in cash.

The total number of shares of Common Stock to be received by any shareholder in a Proposed Distribution will be determined, over a period of three days beginning four days after the election forms are due from the shareholders, based upon a formula using market prices and designed to equate the value of the number of shares to be received with the amount of cash that could be received instead.

Taxpayer does not currently have a dividend reinvestment plan ("DRIP") in effect, but for any shareholder participating in a future DRIP, the DRIP will apply only to the extent of the cash which the shareholder would have received in a Proposed Distribution in the absence of the DRIP. Taxpayer did not undergo and had no plan or intention to undergo any corporate reorganization or other business combination in connection with or contemporaneously with any of the Proposed Distributions, although Taxpayer may have stock offerings that are unrelated to the Proposed Distributions.

### RULINGS

Based solely upon the information submitted and the representations made, we rule as follows on the Proposed Distributions:

- 1) The cash and Common Stock distributed in a Proposed Distribution shall be treated as a distribution of property with respect to the Common Stock to which section 301 applies. Sections 301 and 305(b)(1).
- 2) The amount of the distribution of the stock received by any holder of Common Stock electing to or otherwise receiving stock will be considered to equal the amount of money which could have been received instead. Treas. Reg. § 1.305-1(b)(2).

### CAVEATS

Except as expressly provided herein, no opinion is expressed or implied concerning the tax treatment of the proposed transaction under other provisions of the Code and regulations or the tax treatment of any condition existing at the time of or effects resulting from a Proposed Distribution that are not specifically covered by the above rulings. In particular, no opinion is expressed with regard to whether Taxpayer qualifies as a REIT under subchapter M of the Code or whether the distributions made pursuant to the ruling will satisfy the "required distribution" requirement under section 4981(b)(1). Furthermore, no opinion is expressed with regard to whether a Proposed Distribution constitutes a preferential dividend under section 562(c).

### PROCEDURAL STATEMENTS

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

*Isaac W. Zimbalist*

Isaac W. Zimbalist  
Senior Technician Reviewer, Branch 5  
Office of Associate Chief Counsel (Corporate)

cc: